

A-15

CASE NO. 2888.

IN THE DISTRICT COURT OF THE STATE OF UTAH, IN AND FOR
UTAH COUNTY.

Provo Reservoir Company,

A Corporation

Plaintiff

Vs.

Provo City, Lincoln School District,
The Provo Bench Canal and Irrigation
Company, The West Union Canal Company,
and John H. Carter, R.G. Carter,
Amos Carter, David Carter, R.D. Young,
Layfayette Carter, Vernius Carter, Mary E.
Downs, J.M. Downs, and Eliza Ashton,
administratrix for the estate of Aaron
Carter, deceased, et al, Defendants.

*Answer of John
H. Carter et al*

Now come John H. Carter, R.G. Carter, Amos Carter, David Carter,
R.D. Young, Layfayette Carter, Vernius Carter, Mary E. Downs, J.M.
Downs, and Eliza Ashton, administratrix for the estate of Aaron
Carter, deceased, the defendants in the above entitled action and
make their answer to the said plaintiff's complaint for themselves
alone, and not for any one or more of the other defendants, and admit
deny, and allege as follows, to-wit;

1

Admit the allegations in paragraphs from 1 to 29 inclusive.

11

As to the allegations in paragraphs from 29 (A) to 29 (C) inclusive,
these defendants have not sufficient knowledge or information to
form a belief and therefore deny it.

111

Admit paragraph 29 (D).

1V

As to the statements contained in paragraph 29 (E) to paragraph 33
inclusive, these defendants have not sufficient knowledge to form a
belief and therefore deny it.

V

The defendants admit paragraphs 34 and 35.

VI

As to paragraph 36, these defendants allege, that they have not sufficient knowledge or information to form a belief except as hereinafter set forth and therefore deny it.

VII

As to allegations in paragraph 37, defendants allege, that they have not sufficient knowledge or information to form a belief except as hereinafter set forth and therefore deny it.

VIII

As to allegations in paragraphs 38 and 39, defendants allege, that they have not sufficient knowledge or information on which to form a belief except as hereinafter set forth and therefore deny it.

LX

That these defendants for further and affirmative defence allege; That on the 5th day of February, 1902, in a case then pending in the District Court of the Fourth Judicial District of the State of Utah, in and for Utah County, wherein Grovo City, et al, were ^{plaintiffs} ~~defendants~~ and the West Union Canal Company, et al, were defendants, a certain decree was rendered, commonly known as the "Morse Decree" which decree adjudicated the several water rights to the parties to the said action, among others, those of the defendants, and awarded to them a certain amount of water at different stages of the amount of water in Grovo River, which decree is hereby referred to and as far as applicable to the plaintiff and these defendants, is made a part of this answer.

X

That by mutual agreement and stipulation by and between the said plaintiff and these defendants, these defendants are accorded the rights awarded to them by said decree, subject, however, only to the terms of a decree of this Court made and entered on the 26th day of January, 1907, and commonly known as the "Chidester Decree" wherein the said Decree changes in any manner the rights of these defendants as given to them by the said "Morse Decree" and which "Chidester Decree" is hereby referred to in as far as it affects the rights of this plaintiff and these defendants, it is hereby made a part of this answer.

WHEREFORE, said defendants pray judgment that they may be granted and have the rights to the use of the water awarded to them by said

"Morse Decree" and particularly as follows, to-wit: That when the water of said Provo River at and near the mouth of Provo Canyon exceeds 15000 cubic feet of water per minute that these defendants be awarded their portion of said water awarded to them by said "Morse Decree" to the amount as follows, John Carter, and other persons, if any, taking water from the Carter Ditch..... .0085 of the water in said River.

That when the volume of water in Provo River near and below the mouth of Provo Canyon, in Utah County, becomes reduced in quantity at said point to a volume not exceeding 15000 cubic feet per minute and until the same becomes reduced in quantity at said point to a volume not exceeding 12000 cubic feet of water per minute, these defendants shall be entitled to the following proportions thereof, to-wit:

John Carter and other persons, if any, taking water from the Carter Ditch..... .0085.

That when the water of said Provo River at and near the mouth of Provo Canyon does not exceed 12000 cubic feet per minute that these defendants be awarded their portion of the said water awarded to them. And that the defendants recover costs.

his
John H. Carter
mark

State of Utah
 SS
County of Utah

being first duly sworn on his oath says, that he is one of the defendants named in the foregoing answer, that he has read the foregoing answer and knows the contents thereof and that the same is true of his own knowledge except as to those matters stated on information and belief and as to those matters he believes it to be



his
John H. Carter
mark
November
Alfred L. Booth
Notary Public.

My commission expires April 25th, 1914.